

**Hayley Cleary, MPP, PhD**  
**February 05, 2024**

UNITED STATES DISTRICT  
COURT DISTRICT OF  
MASSACHUSETTS

CIVIL ACTION NO: 18-CV-10147

GEORGE PERROT  
PLAINTIFF

v.

THE CITY OF SPRINGFIELD, et. al.  
DEFENDANTS

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DEPOSITION OF: HAYLEY CLEARY, MPP, PhD  
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Taken before Nicole A. Stewart, Court Reporter, Notary Public, pursuant to Rule 30 of the Federal Rules of Civil Procedure, VIA ZOOM PLATFORM, on February 5, 2024.

Nicole A. Stewart  
Court Reporter

**Hayley Cleary, MPP, PhD**  
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## S T I P U L A T I O N S

It is agreed by and between the parties that all objections, except objections as to the form of the question, and all motions to strike unresponsive answers are reserved to be raised at the time of trial for the first time.

It is further agreed that the deponent will read and sign the deposition, notary waived, and that the sealing of said deposition will be waived.

HAYLEY CLEARY, MPP, PhD, the Deponent,  
having been first duly sworn and identified by  
production of her driver's license, deposes and says  
as follows:

**EXAMINATION BY ATTORNEY DESOUSA:**

Q. Dr. Cleary, my name is Lisa deSousa, and I'm an attorney in Massachusetts and I represent the City of Springfield in the matter of George Perrot versus the City of Springfield and a number of named individuals. And you have provided a report containing opinions on various matters involved in that case, is that correct?

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1 A. Yes.

2 Q. And I want to begin by, have you been  
3 deposed before?

4 A. Yes.

5 Q. And have you been deposed in your  
6 capacity as an expert witness before?

7 A. Yes.

8 Q. I'm going to go over briefly then just  
9 some rules of the road to get through the deposition  
10 as painlessly as we can. And I would ask us to pay  
11 special attention to the fact that we are doing this  
12 by Zoom which sort of adds to some of the challenges  
13 of doing these types of things. Okay?

14 A. Okay.

15 Q. So, first and most importantly, all of  
16 your answers have to be verbal. They can't be by  
17 gesture, nod, et cetera. All right?

18 A. Yes.

19 Q. Secondly and most difficult, which  
20 usually presents the most difficulty is that I have to  
21 let you finish your answer and you need to let me  
22 finish my question so that we have a clear record and  
23 so you absolutely know what I'm asking before you  
24 begin the answer. Okay?

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1 A. Okay.

2 Q. Frequently, during these depositions, one  
3 or both of us will forget that rule and we need to  
4 gently remind ourselves to let the other person  
5 finish. Okay?

6 A. I understand.

7 Q. All right. There is no judge here today,  
8 although your testimony is under oath, and you may  
9 during the course of this deposition hear various  
10 other attorneys making objections. Those objections  
11 are to save the matter for the court to rule on later  
12 and do not prevent you from answering the question  
13 that's been asked. Do you understand that?

14 A. Yes.

15 Q. If at any time at all you require a break  
16 for any reason, please let us know and we will attempt  
17 to accommodate that. All right?

18 A. Thank you.

19 Q. And if you don't understand my question,  
20 I can tell you right now it will be me, not you, and  
21 if you let me know that, I'll try to reword it in a  
22 way that's more understandable. Okay?

23 A. Thank you.

24 Q. If in answering my question you feel you

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1 cannot give an answer without referring to documents  
2 that you have reviewed in this matter, please let me  
3 know that and we will attempt to accommodate that so  
4 that you can have whatever materials you need in front  
5 of you to fully, completely, and truthfully answer my  
6 question. Okay?

7 A. Okay.

8 Q. And do you have available to you today  
9 the documents that you reviewed in forming your  
10 opinion?

11 A. I have them electronically.

12 Q. Okay. And similarly, do you have a copy  
13 of your report available?

14 A. I have a hard copy of my report here.

15 Q. Okay. And other than your report, do you  
16 have any other hard documents sitting in front of you  
17 right now?

18 A. No.

19 Q. Unless I refer you to a document or you  
20 let me know that you would want to refer to a  
21 document, I would ask you that not refer to documents  
22 and instead you try to answer from your present memory  
23 and once we exhaust your present memory, if you need  
24 to refer to documents, we will make every effort to

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1 accommodate that. All right?

2 A. Sure.

3 Q. Is there anything that would prevent you  
4 from being able to testify today fully, completely,  
5 and truthfully?

6 A. No.

7 Q. Are you on any drugs or under the effects  
8 of any intoxicating alcohol or drugs that would  
9 prevent your ability to testify today?

10 A. No.

11 Q. Do you suffer from any medical conditions  
12 or memory issues that would prevent you from being  
13 able to testify today?

14 A. No.

15 Q. All right. So, do you have any questions  
16 for me before we begin?

17 A. I don't. Thank you.

18 Q. So, I would like you to briefly beginning  
19 with college and for the record review your education,  
20 please.

21 A. Sure. I received undergraduate degrees  
22 in Psychology and Russian Studies from the University  
23 of Virginia. I earned a Master's degree in Public  
24 Policy from Georgetown University and I earned a PhD

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1       in Developmental Psychology from Georgetown  
2       University.

3           Q.       And can you give me years of graduation  
4       from those three programs?

5           A.       Yes. Undergraduate was 2004, Master's  
6       degree, 2007, and Doctoral degree, 2010.

7           Q.       And what year were you born, ma'am?

8           A.       1981.

9           Q.       And since your receipt of your PhD, where  
10      have you been employed, ma'am?

11          A.       Briefly -- let's see, since the PhD,  
12      briefly with a non-profit called Voices for Virginia's  
13      Children and then shortly thereafter, Virginia  
14      Commonwealth University where I have been employed  
15      ever since.

16          Q.       And you have done scholarly work  
17      continuously since you began your PhD program, is that  
18      a fair statement?

19          A.       Other than a brief reprieve from  
20      academia, yes.

21          Q.       And is there a particular area that your  
22      scholarly work concentrates in?

23          A.       Yes. Generally the application of  
24      adolescent development to legal context and more

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1 specifically police interviewing and interrogation of  
2 young people.

3 Q. And when you use the term young people,  
4 what do you have in mind when you use that term?

5 A. As a developmental psychologist, I define  
6 adolescents as the period between puberty and complete  
7 brain maturation. Generally speaking, that's between  
8 the ages of about ten to twenty-five.

9 Q. So, you don't generally concentrate on  
10 children younger than ten?

11 A. In my experience, children younger than  
12 ten are frequently not interrogated by police.

13 Q. And generally, you don't concentrate on  
14 persons over older than twenty-five?

15 A. Not as much as adolescents.

16 Q. Okay. And during your professional  
17 career, you have spent some time acting as an expert  
18 witness as you are in this case, is that true?

19 A. Yes.

20 Q. And focussing on the last, let's say  
21 since 2020, what percentage of your time would you say  
22 you devote to offering your services as an expert  
23 witness?

24 A. How do you -- I'm not sure how to define

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1 what percent of my time. Could you help me understand  
2 that?

3 Q. Sure. Would you say that if you work  
4 fifty hours a week, in general, ten hours of that is  
5 spent on this pursuit? If it's easier for you to  
6 think of it by month or week, whatever way makes the  
7 most sense to you.

8 A. Thank you. I see. I would say over the  
9 course of a year, maybe five to ten percent of my work  
10 hours.

11 Q. Okay. And you charge for those services,  
12 correct?

13 A. For my time, yes.

14 Q. And what is your hourly rate?

15 A. It's typically 300 per hour.

16 Q. And focusing on the period of 2020  
17 through the end of 2023, how much money have you made  
18 during that time providing expert witness services?

19 A. I don't know.

20 Q. Do you have an estimate?

21 A. I could attempt to generate one. I keep  
22 records but I haven't reviewed them specifically.  
23 Since 2020, I would say maybe \$15,000.

24 Q. A year?

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1 A. No. Total. That's --

2 Q. Okay.

3 A. That's a very rough estimate.

4 Q. Okay. And how much have you made in this  
5 matter to date?

6 A. I would have to review my invoice to  
7 answer that correctly.

8 Q. How many hours did you spend reviewing  
9 the documents that were provided to you in preparing  
10 the report that we have received in this matter?

11 A. I would also have to review my invoice to  
12 answer that specifically.

13 THE COURT REPORTER: Hold on one  
14 second. I apologize for interrupting. I have  
15 Robert Schmidt in my waiting room. Let me just  
16 admit him.

17 ATTORNEY DESOUSA: Sure. That's  
18 fine. I apologize for doing this but it has  
19 just occurred to me that I haven't approved any  
20 of my staff's time, so they won't get paid  
21 unless I take a very brief break, so I  
22 apologize.

23 ATTORNEY AGBIRO: No worries, Lisa.  
24 How much time do you need?

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1 ATTORNEY DESOUSA: To approve time?

2 ATTORNEY AGBIRO: Yeah.

3 ATTORNEY DESOUSA: I'm not even  
4 leaving this desk. It will take me like five  
5 minutes at the most.

6 ATTORNEY AGBIRO: Okay.

7 ATTORNEY DESOUSA: I just forgot it  
8 was Monday which tells you something I guess  
9 about where my head is.

10 ATTORNEY AGBIRO: It's early Monday  
11 morning.

12 ATTORNEY DESOUSA: Just give me one  
13 minute here.

14 ATTORNEY AGBIRO: No problem.

15 ATTORNEY LYNCH: You know, Lisa,  
16 while you're taking this, does it make sense to  
17 -- can anyone hear me?

18 ATTORNEY DESOUSA: Yes, Carole, I  
19 can.

20 ATTORNEY LYNCH: I was just  
21 wondering, while you're doing that, would it  
22 make sense for Ms. Cleary to double-check her  
23 invoice or whatever she has now?

24 ATTORNEY DESOUSA: Sure. That would

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15

1 | be great.

(A recess was taken)

ATTORNEY DESOUSA: Back on the

Q. (By Attorney deSousa) So, Dr. Cleary, did you have an opportunity to review your invoice?

A. I did.

Q. Okay. And how much have you been paid in this matter?

A. I billed sixteen hours for \$4,800.

Q. And have you had prior occasions to work with the Loevy firm?

A. Have I? I don't think so.

Q. Okay. How many cases have you worked on over the course of your career would you estimate where you offered expert testimony?

A. In cases I have offered testimony, maybe about twenty. I have consulted on more than that.

Q. Okay. And of those twenty cases, have they all been -- well, tell me what type of cases those were.

A. So, criminal trials, some post-conviction hearings, some innocence claims or innocence proceedings, and a few civil cases.

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1 Q. And focussing just on the civil cases,  
2 was it your understanding that they were civil rights  
3 claims?

4 A. I don't know.

5 Q. And focussing solely on the civil -- I'm  
6 sorry. Strike that.

7 Focussing solely on the civil cases, were  
8 you ever retained or consulted by defendants?

9 A. No.

10 Q. Now, when you were retained in this  
11 matter, what did you understand the scope of the  
12 request for your services to be?

13 A. I understood the scope to be review  
14 materials that were germane to the case and offer an  
15 opinion about the degree to which the social science  
16 can speak to false or unreliable confessions.

17 Q. And when you say the social science, can  
18 you tell me what you mean by that?

19 A. Sure. I'm trained as a psychologist and  
20 the vast majority of research on coerced confessions  
21 and false confessions occurs under the discipline of  
22 psychology conducted by psychologists.

23 Q. And were you -- were there specific  
24 questions that you were to answer?

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1 A. Not that I recall.

2 Q. And can you tell me just in general,  
3 we'll certainly talk about more of the specifics as  
4 this deposition goes on, but in general, what was your  
5 understanding of the nature of the claims being  
6 pursued by Mr. Perrot?

7 A. Do you mean what was my understanding  
8 prior to my review of the materials?

9 Q. Prior or during.

10 A. Okay.

11 ATTORNEY AGBIRO: Objection to the  
12 extent that it calls for any attorney work  
13 product. So, as long as it doesn't refer to  
14 any conversations.

15 THE WITNESS: I see. My  
16 understanding was that Mr. Perrot -- am I  
17 pronouncing that correctly?

18 Q. (By Attorney deSousa) Yes.

19 A. Okay. My understanding was that Mr.  
20 Perrot was claiming that the confessions that he  
21 offered to -- or the confessions that for which he was  
22 convicted of sexual assault were untrue.

23 Q. And in being retained in this case, were  
24 you anticipated to bring any expertise regarding

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1 policing practices in the course of your opinion?

2 A. It depends on how you define policing  
3 practices.

4 Q. Okay. So, you understand that the  
5 interrogations in question were done in 1985, correct?

6 A. Yes.

7 Q. And it would be true, wouldn't you agree,  
8 that there are standards within the policing world  
9 that govern police behavior?

10 A. Yes.

11 Q. Correct? And do you have any expertise  
12 in what policing practices were relative to  
13 interrogation in general?

14 A. I have a strong degree of familiarity  
15 about policing practices because it is relevant to my  
16 work. I do not have specific training or credentials  
17 in police practices.

18 Q. And focusing on 1985, do you have a  
19 strong knowledge of or familiarity with policing  
20 practices as they existed in 1985?

21 A. Policing practices then and now differ  
22 widely all across the country.

23 Q. So, I'm -- but what I'm specifically  
24 asking you is whether you yourself had a knowledge of

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1 policing practices in 1985 and if you feel that you  
2 had knowledge of policing practice in 1985 in one area  
3 of the country or in one particular size of police  
4 department? That's what I'm interested in hearing  
5 about.

6 A. I understand. Thank you. I do not have  
7 specific knowledge of Springfield Police Department's  
8 practices in 1985.

9 Q. Do you have specific knowledge of any  
10 police department's practices in 1985?

11 A. I would have to review some of the cases  
12 that I have worked prior that did involve review of  
13 training manuals, I can think of a few, although the  
14 locations are escaping me to be honest. So, I have  
15 encountered specific police training via their records  
16 or their departmental documentation in a few specific  
17 areas as part of my casework.

18 Q. And as you sit here today, you think you  
19 may have had some cases that were concerned with  
20 interrogation practices in police departments in 1985?

21 A. It's possible. I would have to look at  
22 all of my records.

23 Q. When you were reviewing the matters in  
24 this case, did you draw upon any particular knowledge

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1 of policing practice in 1985 in arriving at any of  
2 your opinions?

3 A. No.

4 Q. So, I would like to focus on the -- so  
5 much of your report, and it's on Page 2 if it's  
6 helpful to you to refer to it, that recounts the  
7 documents that you reviewed in preparation for this  
8 deposition.

9 A. Yes.

10 Q. And is that a complete --

11 ATTORNEY DESOUSA: I'm sorry, Carla.

12 Did you say something?

13 ATTORNEY AGBIRO: No.

14 ATTORNEY DESOUSA: I'm hearing --

15 ATTORNEY AGBIRO: I heard that too.

16 I'm going to mute my mic but it wasn't on my  
17 end.

18 ATTORNEY DESOUSA: Yeah. It might  
19 be hard for you to mute because you're going to  
20 be the one that wants to object but if other  
21 people aren't muted --

22 ATTORNEY AGBIRO: Yes.

23 ATTORNEY DESOUSA: -- if they could  
24 mute, that might help. Thanks.

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1 Q. (By Attorney deSousa) Okay. So,  
2 beginning on Page 2, you -- is this a complete list of  
3 the documents that you reviewed? You listed twenty  
4 separate documents?

5 A. Twenty-one. There's one on the next  
6 page.

7 Q. I don't have that. Oh, I'm sorry.

8 A. The top of the next page.

9 Q. Yes. No. You're right. I skipped a  
10 page over.

11 A. I missed it as well. This is the  
12 complete list of documents that I reviewed prior to  
13 drafting the report. Since then, it came to my  
14 attention that there were additional depositions and I  
15 briefly reviewed them prior to today.

16 Q. And what are those depositions?

17 A. They were the depositions of Mr. Bloom  
18 and -- I'm sorry. I'm not going to remember their  
19 names. There was the District Attorney and a few of  
20 the officers.

21 Q. And were those provided to you by counsel  
22 for the plaintiff?

23 A. Yes.

24 ATTORNEY DESOUSA: Carla, I'm going

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1           to ask if at our first break you could provide  
2           us with any additional documents that have been  
3           sent to her in anticipation of this deposition  
4           so that we have that available for the  
5           deposition this morning.

6                   ATTORNEY AGBIRO: Sure. You want  
7                   the deposition transcripts?

8                   ATTORNEY DESOUSA: No. No. No.  
9                   No. No. I just want the -- I have those. I  
10                  just want the names.

11                  ATTORNEY AGBIRO: Yeah.

12                  ATTORNEY DESOUSA: I just want the  
13                  names.

14                  ATTORNEY AGBIRO: Oh, the names of  
15                  the deps that were sent to her. Sure. I was  
16                  about to say, do you want the transcript or  
17                  just the names. Got it.

18                  ATTORNEY DESOUSA: No. No. I just  
19                  want the names of anything that has been sent  
20                  to her since the report was generated.

21                  ATTORNEY AGBIRO: All right. Got  
22                  it.

23                  Q.        (By Attorney deSousa) And you reviewed  
24                  all of the documents listed on here as well as these

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1 three or four additional deposition transcripts?

2 A. Yes.

3 Q. And did any of documents that you  
4 reviewed after the production of your report change  
5 any of the opinions that you put in this report?

6 A. No.

7 Q. Did they add to it at all?

8 A. No.

9 Q. So, under number 1, you have listed, List  
10 of defendants. Can you tell me, what was that? What  
11 list of defendants did you review?

12 A. There was a document -- I don't remember  
13 the specifics but it was a table and in fact, now that  
14 I'm reflecting upon it, defendants might be the wrong  
15 word. It was a list of participants in the situation,  
16 so officers, the names of victims and complainants,  
17 and then a rough approximation of when things  
18 occurred.

19 Q. And, so, was the list of defendants also  
20 the case timeline that you refer to in that number 1?

21 A. Yes. It's a single document.

22 Q. And is it a one-page document or a  
23 multi-page document?

24 A. I don't remember. I would have to look

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1 at it.

2 Q. And where you recounted the timeline  
3 within this report, did you rely upon that in full or  
4 in part in determining that timeline?

5 A. Actually very little because I  
6 constructed my own timeline in the process of  
7 reviewing the documents. That's my usual approach.  
8 And then just by virtue of the order in which I  
9 reviewed the documents, I believe I encountered that  
10 case timeline close to the end after I had done my own  
11 review.

12 Q. Okay. So, is there a particular reason  
13 why you listed it first if you reviewed it last?

14 A. No. These are not listed in the order in  
15 which I reviewed them. They're probably listed in the  
16 order they appear in my computer.

17 Q. Okay. And the next category is, Mass.  
18 DYS, Department of Youth Services, placement history.  
19 What do you recall about that document or those  
20 documents?

21 A. If memory serves, it was a listing of the  
22 dates in which Mr. Perrot resided in state facilities,  
23 so the date of admission and the date of discharge and  
24 the name of the facility.

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1 Q. And was there anything else included in  
2 those records?

3 A. Possibly. That's what I remember.

4 Q. Do you remember when you reviewed any  
5 medical evaluations of him from DYS?

6 A. I can't remember if those -- if there  
7 were different types of documents in the same file. I  
8 would have to look at it again.

9 Q. And well, regardless of whether it came  
10 from DYS or not, do you recall reviewing medical  
11 records of Mr. Perrot from the time leading up to  
12 1985?

13 A. There was a report from a psychiatrist in  
14 a facility. I'm not sure if you would consider that  
15 medical records but I recall that one.

16 Q. And is that the report you refer to from  
17 January of 1986?

18 A. Yes.

19 Q. So, that was before his arrest in this  
20 case, correct? I mean -- sorry. Strike that.

21 That was after his arrest in this case,  
22 correct?

23 A. Correct.

24 Q. And, so, but my question is, did you see

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1 any psychiatric evaluations of him or medical  
2 evaluations of him from before his arrest?

3 A. I don't recall.

4 Q. Okay. And George Perrot's juvenile court  
5 records, you reviewed? That's number 3 on --

6 A. Yes.

7 Q. -- your list?

8 A. That's correct.

9 Q. And what did those records consist of?

10 A. I don't remember the content or the  
11 specific format.

12 Q. Did it include the dates of his arrest?

13 A. Quite possibly. I don't remember  
14 specifically.

15 Q. Did it list the various things he has  
16 been arrested for?

17 A. I could tell you if I looked at them.  
18 It's been since the last fall when I reviewed the  
19 materials and submitted the report.

20 Q. But at least as you sit here today,  
21 nothing of import springs to mind about those records?

22 A. I mean, they're relevant to his youth  
23 history and his arrest history.

24 Q. Okay. And you reviewed his mugshot and

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1 his line-up photos. When you say that, do you mean  
2 the mugshot from his 1985 arrest or were there -- did  
3 you see his previous mugshots?

4 A. I don't recall specifically.

5 Q. Okay. And similarly, his arrest record,  
6 when you said you reviewed his arrest record, was that  
7 up to his arrest in 1985?

8 A. I don't recall.

9 Q. Do you recall seeing any of his arrest  
10 records since his release?

11 A. I don't recall.

12 Q. And then you reviewed his statement that  
13 George Perrot gave on September 21st, 1985 regarding a  
14 response to a phone call from someone whose name is  
15 Mae Marchand. Do you recall that statement?

16 A. I do.

17 Q. Did you review any of the other  
18 statements that were taken from people relative to the  
19 Mae Marchand incident in September, in or about  
20 September of 1985?

21 A. Are you asking me if I remember reviewing  
22 them?

23 Q. Yes.

24 A. I remember reviewing them, yes. I do not

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1 recall every detail of the content of the discovery.

2 Q. Okay. So, this says you reviewed a  
3 statement from George Perrot?

4 A. Yes.

5 Q. In September of 1985, and what I'm  
6 specifically asking you is whether you also reviewed  
7 statements from anybody else relative to that  
8 incident? And I'm not -- this isn't -- I'm not trying  
9 to trick you.

10 A. Sure.

11 Q. Did you review a statement from his  
12 girlfriend at the time named Lisa Eldridge relative to  
13 the Mae Marchand issue? Did you --

14 A. I don't -- I don't recall.

15 Q. Did you review a statement from someone  
16 named Timmerman, the same -- that also in September of  
17 1985?

18 A. I'm sorry. Did you ask did I review a  
19 statement by Timmerman or to Timmerman?

20 Q. Yes. By.

21 A. By Timmerman? I do not -- I don't  
22 recall, no, a statement from that person.

23 Q. If you had reviewed statements from other  
24 people other than George Perrot, would you have listed

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1 those separately?

2 A. Yes. I believe so, yes.

3 Q. And you can agree with me that they're  
4 not listed on here, correct?

5 A. Correct.

6 Q. All right. And then you reviewed a  
7 statement from Joseph McNabb dated 12/7/1985, correct?

8 A. Yes.

9 Q. And who did you understand Joseph McNabb  
10 to be?

11 A. He was an individual whose house was  
12 broken into.

13 Q. And you reviewed the statement from  
14 George Perrot relative to both the break-in at  
15 McNabb's house and a purse-snatching that occurred  
16 that same day, is that correct?

17 A. Yes.

18 Q. And you reviewed a statement from George  
19 Perrot dated 12/7/85 regarding what's referenced on  
20 here as the 11/30/85 break-ins. Do you recall  
21 reviewing that statement?

22 A. I do.

23 Q. And what do you recall the underlying  
24 accusations were for the 11/30/85 break-ins?

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1           A.       Those were the allegations regarding  
2 sexual assault on elderly women.

3           Q.       Not Mae Marchand though, correct?

4           A.       You will have to forgive me because there  
5 were multiple related crimes in a similar timeframe  
6 and I cannot keep straight the different women's  
7 names.

8           Q.       Okay. If I suggested to you that the  
9 November 30th, 1985 break-ins related to a woman named  
10 Emily Lichwala and Mary Prekop, would that refresh  
11 your recollection?

12          A.       Yes. Thank you.

13          Q.       And then this report of Dr. Harry  
14 Michelson, we spoke about that briefly, correct?

15          A.       Yes.

16          Q.       And that was from January 15th, 1986?

17          A.       Yes.

18          Q.       And do you recall in what records you  
19 found Dr. Michelson's report?

20          A.       I believe it was packaged with other  
21 records from the correctional facility or a detention  
22 facility if memory serves.

23          Q.       Okay. And did you review other documents  
24 from that detention facility or just his report?

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1           A.       In the file, if I'm remembering  
2 correctly, there were assorted one-page supplemental  
3 documents, for example, the -- a page where an officer  
4 documented suicidal ideation for example. Sometimes,  
5 the files come to me as a single PDF and I'm not sure  
6 if they originated from different sources.

7           Q.       Okay. And you list that you reviewed the  
8 suppression hearing transcript from September 2nd,  
9 1986?

10          A.       Yes.

11          Q.       And did you review that in total?

12          A.       Yes.

13          Q.       And the first trial transcript, did you  
14 review that in total?

15          A.       I believe so.

16          Q.       And the second trial transcript, did you  
17 review that in total?

18          A.       I believe so.

19          Q.       And the intake from North Central CI, how  
20 many pages was that?

21          A.       I have no idea.

22          Q.       Do you recall anything specifically about  
23 that document?

24          A.       I believe it included an intake history

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1 where an intake officer would review the person's  
2 medical, social, family history. I believe that  
3 information was included.

4 Q. Okay. And you reviewed a letter to Bob  
5 Timmerman dated 11/24/1987, do you recall that  
6 document?

7 A. Yes.

8 Q. And what was that document?

9 A. I believe that document was a handwritten  
10 letter from Mr. Perrot essentially proclaiming his  
11 innocence of the sexual assaults.

12 Q. And George Perrot's pro se affidavit  
13 dated October 7th, 1985, did you review that?

14 A. Yes.

15 Q. And what do you recall that document  
16 containing?

17 A. I believe it was a statement similarly  
18 arguing that he did not commit the sexual assaults.

19 Q. And completion certificates and letters  
20 of support for Mr. Perrot's parole application, do you  
21 recall specifically what those documents were?

22 A. There were a few certificates for  
23 programs that he completed while incarcerated. I  
24 don't recall the nature of the programs. And then

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1 there was a supplemental letter from -- I don't know  
2 the nature of the person's profession but, you know,  
3 supporting his application for parole.

4 Q. Do you recall who that person was?

5 A. I don't off the top of my head. I would  
6 have to look at the document again.

7 Q. Does the name Sherrie Frisone refresh  
8 your recollection?

9 A. I would have to look at the document.

10 Q. Okay. And then you reviewed both days of  
11 Mr. Perrot's deposition, correct?

12 A. Yes.

13 Q. And Officer Jarvis's deposition?

14 A. Yes.

15 Q. And at least until the supplemental  
16 documents that were sent to you after you produced  
17 your report, that's the total of the documents you  
18 reviewed in preparing the report?

19 A. Yes.

20 Q. Did you have access to any of his  
21 disciplinary records during the period of his  
22 incarceration?

23 A. If they were included in the -- I don't  
24 know how to say -- the materials from the correctional

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1 facility, in that combined PDF, then I would have had  
2 access to them.

3 Q. So, you believe that in addition to the  
4 documents that are listed here, you may have had  
5 documents from after his conviction, his  
6 post-conviction incarceration records?

7 A. Oh, post-conviction incarcerations, I  
8 don't think so. I would have to look at my folder of  
9 materials again.

10 Q. Okay. And how about any medical records  
11 or psychological records, counselling records from  
12 2017, since his release from incarceration?

13 A. Those are less relevant to my analysis.

14 Q. Did you review them?

15 A. I don't think so.

16 Q. Okay. And did you have an opportunity to  
17 review the decision rendered by the court after the  
18 suppression hearing?

19 A. Do you mean in transcript form?

20 Q. No. The written opinion that the judge  
21 issued at the conclusion of the suppression hearing.

22 A. Unless I made a mistake, everything that  
23 I reviewed is listed on Page 2 of the report.

24 Q. Okay. And similarly, you didn't review

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1 any of the Appellate Court decisions that reviewed  
2 various matters including the voluntariness of his  
3 confession, you didn't review any of the Appellate  
4 Court decisions on those issues?

5 A. Unless I made an error of omission,  
6 everything that I reviewed is listed on Page 2 and 3  
7 of the report.

8 Q. Okay. And can we agree that if you do  
9 discover that you made an error of omission that you  
10 will inform plaintiff's counsel and they will in turn  
11 inform us?

12 A. Absolutely.

13 Q. And we will at this point go forward  
14 assuming that you have accurately told us what you  
15 have reviewed. Okay?

16 A. Yes.

17 Q. Okay. Great. So, a little while ago,  
18 you indicated that your understanding of your  
19 retention was that you would review the confessions  
20 that Mr. Perrot gave in 1985, is that correct?

21 A. And the surrounding materials regarding  
22 the case.

23 Q. And when you refer to confessions, what  
24 confessions in particular are you -- were you asked to

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1 review?

2 A. I was provided with written statements,  
3 one pertaining to the purse-snatching and the break-in  
4 and the second pertaining to the sexual assaults.

5 Q. And as you sit here today, what is your  
6 understanding of what crimes Mr. Perrot was convicted  
7 of in 1987?

8 A. I believe he was convicted of sexual  
9 assaults on Ms. Lichwala and Prekop.

10 Q. So, when you were reviewing these  
11 documents, it was your understanding that he had been  
12 found guilty of the rape of both women?

13 A. It's possible. I don't recall the  
14 specific details.

15 Q. Okay. And you also understand that he  
16 was granted a second trial in the 90s?

17 A. Yes.

18 Q. And you reviewed those transcripts,  
19 didn't you?

20 A. I did.

21 Q. And what is your understanding of what  
22 crimes Mr. Perrot was convicted of in 1992?

23 A. I believe it was the same crimes.

24 Q. And do you have an understanding of what

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1 led to Mr. Perrot being granted a new trial in 2017?

2 A. This is plumbing the depths of my memory  
3 but I recall that there -- if this is the case and I'm  
4 not confusing it with another -- that there was  
5 concern around crime analysts, perhaps a particular  
6 crime analyst from the FBI whose cases were called  
7 into question, something having to do with improper  
8 DNA analysis and there was DNA collected from Mr.  
9 Perrot in this case.

10 Q. And, so, you believe that the DNA  
11 analysis led to his release in 2017 in some way?

12 A. I don't know what led to his release.

13 Q. Okay. And do you believe that the  
14 confessions that you reviewed and offered opinions on  
15 had anything to do with the grant of the new trial in  
16 2017?

17 A. I have no idea why he was granted a new  
18 trial.

19 Q. And do you know what crimes he was  
20 granted a new trial on in 2017?

21 A. I'm not familiar with the particulars of  
22 the court proceeding. My role was to focus on the  
23 events leading up to the confession interrogation.

24 Q. Okay. Are you familiar with the term

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1 nolle prosequi?

2 A. Yes.

3 Q. We sometimes also refer to it as a nol  
4 pros --

5 A. Yes.

6 Q. -- because it's easier for us all to say  
7 that I guess.

8 A. Right.

9 Q. And what do you understand that to mean?

10 A. My understanding is that that occurs when  
11 the prosecutor decides to not move forward with a case  
12 because they feel that there's not enough evidence to  
13 convict.

14 Q. And do you believe a nol pros was entered  
15 in this case?

16 A. I don't recall. I don't know.

17 Q. So, would it also be fair to say that you  
18 -- if a nol pros did issue in this case, you don't  
19 have any understanding of what the basis of a decision  
20 not to re-prosecute is, correct?

21 A. That's up to the attorneys.

22 Q. Do you believe that Mr. Perrot was  
23 exonerated of something in 2017?

24 A. No.

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1 Q. I would like to switch focus to 1985. Do  
2 you know what the age in Massachusetts to be  
3 prosecuted as an adult was in 1985?

4 A. No.

5 Q. Do you know who determines what age  
6 someone is going to be prosecuted as an adult?

7 A. It's usually the legislature and the  
8 state code.

9 Q. Okay. Would it have been important to  
10 you in determining the appropriateness of an  
11 interrogation to understand the legal standard at the  
12 time the interrogation was being done?

13 A. Can you repeat that, please?

14 Q. In offering your opinion on the  
15 appropriateness of an interrogation, is it important  
16 to you to understand what the legal standard is that  
17 the interrogators, in this case the Springfield Police  
18 Department, was operating under?

19 A. Not specifically because the process of  
20 interrogation and the people involved are what I am  
21 reviewing and applying the social science to. So,  
22 it's not my job to determine that police officers  
23 broke the law or did not break the law.

24 Q. So, in your analysis of that, I guess

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1 what I think I'm hearing you say, is that it's not  
2 relevant to your analysis whether the interrogation  
3 was lawful or not?

4 A. It's not my job to determine what is  
5 lawful.

6 Q. Okay. Fair enough. So, I would like to  
7 now switch to the risk factors that you listed on Page  
8 5 of your report. If it's helpful to you to review  
9 that, I'm happy to have you have that front of you.

10 A. Thank you.

11 ATTORNEY DESOUSA: To the other  
12 attorneys that are here, we -- I assume you  
13 have now all received from Megan Landry the  
14 documents that we're now in the process of  
15 referring to. Carla specifically, did you get  
16 them?

17 ATTORNEY AGBIRO: Yes, I did.

18 ATTORNEY DESOUSA: So, I think it  
19 would be helpful just going forward, so we  
20 don't have to keep sort of clumsily doing this,  
21 if we agree to put them in? Okay?

22 ATTORNEY AGBIRO: That's fine.

23 ATTORNEY DESOUSA: All right. So,  
24 Nicole, I don't know what order they got to you

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1       in. So, maybe if could tell me that, we could  
2       go from there.

3                     THE COURT REPORTER: I have the nol  
4       pros as the first one.

5                     ATTORNEY DESOUSA: So, why don't we  
6       list that as Exhibit 1?

7                     THE COURT REPORTER: Okay. And then  
8       I have the PDF labelled as 1986 Findings and  
9       Rulings on Defendant's Motion To Suppress as  
10      the second one.

11                  ATTORNEY DESOUSA: Yeah.

12                  THE COURT REPORTER: And then the  
13      third one is Cleary Expert Report.

14                  ATTORNEY DESOUSA: Yeah.

15                  THE COURT REPORTER: And then the  
16      last one is actually labelled Exhibit 3 but it  
17      was the fourth one to me and that's Cleary's  
18      CV.

19                  ATTORNEY DESOUSA: Okay. That's  
20      great. So, we can all agree that those are  
21      going to go in as 1, 2, 3, 4?

22                  ATTORNEY AGBIRO: Yeah.

23                             (Exhibits 1 through 4, marked)

24   Q.            (By Attorney deSousa) So, turning to

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1       Page 5 of your report, you list various risk factors,  
2       is that true?

3           A.       Yes.

4           Q.       One of the factors that you list is  
5       cognitive impairments, correct?

6           A.       Correct.

7           Q.       And can you tell me what you mean by  
8       cognitive impairments?

9           A.       Cognitive impairments can include low IQ  
10      or intellectual disability, what we formerly would  
11      call mental retardation but that term isn't used  
12      anymore, lower levels cognitive functioning that can  
13      impair everyday life.

14          Q.       And did you -- are you aware of whether  
15      Mr. Perrot suffered from any cognitive impairment in  
16      1985?

17          A.       Mr. Perrot -- may I review -- may I refer  
18      to my report?

19          Q.       Sure.

20          A.       There's a specific section that I wanted  
21      to re-review. Okay. Thank you. So, I did not  
22      receive any academic records or psychometric testing,  
23      I don't know that any was available, I asked but the  
24      only information I have about his functioning is his

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1 grade records. So, to more specifically answer your  
2 question, no, I don't have specific documentation of  
3 cognitive impairments.

4 Q. And you also list -- so, you are not  
5 aware of what Mr. Perrot's IQ is today?

6 A. No.

7 Q. And you're not aware of what his IQ was  
8 in 1985?

9 A. His IQ wasn't available in any of the  
10 documentation that I reviewed.

11 Q. And what about mental illness? Are you  
12 aware of any mental illness from which Mr. Perrot  
13 suffered in 1985?

14 A. So, he was diagnosed somewhere around  
15 that time with antisocial personality disorder and  
16 drug and alcohol abuse. I don't know if it was  
17 specifically categorized as substance abuse disorder  
18 but in the category of psychopathology.

19 Q. And I'm sorry. I skipped the first one  
20 and I apologize. So, you have stated the first risk  
21 factor is adolescence and developmental immaturity.  
22 And you have already told us what adolescence means to  
23 you. I believe you said age ten through twenty-five?

24 A. Generally speaking, yes.

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1 Q. And what do you mean by the term  
2 developmental immaturity?

3 A. Developmental immaturity refers to a  
4 range of cognitive and psychosocial abilities that are  
5 continuing to develop and refine during the  
6 adolescence period. So, for example, the ability to  
7 control one's impulses, the ability to plan ahead, the  
8 ability to self regulate our emotions, the ability to  
9 maintain cognitive control during periods of emotional  
10 arousal, those are relative to adults, less well  
11 developed capacities in adolescents.

12 Q. So, I'm just trying to understand it in  
13 context. So, when you use the term developmental  
14 immaturity, are you saying -- let's just take an  
15 average fifteen-year-old, are you saying developmental  
16 immaturity would be a risk factor if they're less  
17 mature than your average fifteen-year-old or if  
18 they're less mature than an adult?

19 A. I'm saying developmental immaturity is a  
20 feature of adolescence, what we call normative  
21 adolescence so young people with no specific  
22 impairments or no pathologies, it's a feature of this  
23 life stage.

24 Q. And is it true that while you can speak

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1 broadly about developmental characteristics for that  
2 pretty broad age group, ten to twenty-five, there's  
3 differentiations in that from individual to  
4 individual, correct?

5 A. Correct.

6 Q. So, you might have a very mature  
7 twelve-year-old or a very immature  
8 twenty-four-year-old, is that fair?

9 A. With a caveat. So, there are different  
10 types of maturity, right? There's emotional maturity,  
11 there's social maturity, there's physical maturity.  
12 So, absolutely individuals can mature in different  
13 domains along different timetables.

14 THE COURT REPORTER: Hold on one  
15 second. Mark Loevy-Reyes for the plaintiff  
16 just entered my waiting room. Let me just  
17 admit him.

18 ATTORNEY DESOUSA: Sure. You can  
19 let him in.

20 Q. (By Attorney deSousa) And do you have  
21 any specific information as it would relate to George  
22 Perrot's level of developmental maturity or immaturity  
23 in 1985?

24 A. So, we knew his chronological age. We

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1 knew that he had a history of family instability and  
2 negative life events or what we would call trauma or  
3 life adversity. We knew he had, from the evidence I  
4 reviewed, a pretty extensive relationship with drugs  
5 and alcohol which can be very neurotoxic to an  
6 adolescent brain.

7 Q. Did you have any other information about  
8 his particular levels of developmental maturity?

9 A. Let's see, there was his academic record.  
10 So, he dropped out of school -- according to Mr.  
11 Perrot, he reported dropping out of school in the  
12 seventh grade, so that's information about his  
13 interaction with formal schooling. That's all that  
14 comes to mind at the moment.

15 Q. Okay. And are you aware of any police  
16 department in the United States that requires officers  
17 to determine IQ of someone prior to interrogating  
18 them?

19 A. I don't.

20 Q. And how about for mental illness, are you  
21 aware of any police department in the United States  
22 that requires police officers to determine whether  
23 someone suffers from an underlying mental illness  
24 before interrogating them?

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1 A. I'm not.

2 Q. How about other cognitive impairments,  
3 are you aware of any police department in the United  
4 States that requires consideration of that prior to  
5 interrogating someone?

6 A. I'm not.

7 Q. And you're not -- today, is it also true  
8 that you're not aware of any police department that  
9 would have required that in 1985?

10 A. That's correct.

11 Q. Are you aware of any court decisions,  
12 laws, or regulatory guidelines in 1985 that required  
13 police officers to determine IQ before interrogating a  
14 suspect?

15 A. No.

16 Q. Are you aware of any court decision,  
17 laws, or regulatory guidelines that required police  
18 officers to determine whether a suspect suffered from  
19 cognitive impairments prior to interrogating a  
20 suspect?

21 A. No.

22 Q. How about mental impairments? Are you  
23 aware of any court decision, laws, or regulatory  
24 guidelines in 1985 that required police officers to

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1 determine any mental impairments prior to  
2 interrogating a suspect?

3 A. No.

4 Q. Are you aware of any method in 1985 that  
5 would have allowed a police officer to determine a  
6 suspect's IQ prior to interrogating them?

7 A. No.

8 Q. How about cognitive impairment? Are you  
9 aware of any method that was available to police  
10 officers in 1985 to determine whether or not a suspect  
11 suffered from any cognitive impairment?

12 A. No.

13 Q. And mental illness, are you aware of any  
14 method in 1985 that would have allowed a police  
15 officer to determine whether a suspect suffered from  
16 any mental illness or impairment prior to  
17 interrogating them?

18 A. No.

19 Q. I would now like to switch gears to  
20 reviewing the timeline from December 7th, 1985. And I  
21 would say that this is going to be a fairly  
22 substantial chunk of questioning and we can take a  
23 break now or we can take a break during it, whichever  
24 you would prefer.

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1           A.       Thank you for asking. I'm fine.

2           Q.        Okay. Good. So, in arriving at the  
3           opinions that are included in your report, how did you  
4           determine the salient facts that occurred on December  
5           7th, 1985?

6           A.        I'm afraid I don't understand that  
7           question.

8           Q.        So, you recounted within your report  
9           various events that you detail as having happened on  
10          December 7th, 1985. And what I'm asking you is, what  
11          did you use to determine that?

12          A.        I see. Thank you. I used the  
13          information in the suppression hearing transcript from  
14          the participants who testified there and occasionally  
15          information from later depositions.

16          Q.        Okay. So, what time do you believe that  
17          Mr. Perrot was arrested?

18          A.        If memory serves, the police apprehended  
19          him in his home around 3:30 in the morning. I don't  
20          know if that equated to arrest. He may have been  
21          formally arrested later on but that's the time when he  
22          was at his home and police came to retrieve him.

23          Q.        Okay. And what were you able to  
24          determine regarding his sobriety at the time that the

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1 police came to his home at 3:30?

2 A. So, he had provided extensive information  
3 about the drugs and alcohol that he had consumed  
4 beginning around seven or eight o'clock the night  
5 prior up until about 2:30 in the morning is when he  
6 returned home and, so, that was information relevant  
7 to his sobriety. I believe that one of the officers  
8 also testified that he smelled of alcohol when he  
9 arrived at the police station.

10 Q. Was he able to walk when he was roused  
11 from his bed at 3:30 in the morning?

12 A. Yes.

13 Q. Was he able to run?

14 A. Yes.

15 Q. And he testified at the motion to  
16 suppress that he had drank two six packs of beer. Do  
17 you recall that?

18 A. Yes.

19 Q. And from about seven o'clock or eight  
20 o'clock at night because it varies but let's go with  
21 seven until one o'clock in the morning, correct?

22 A. That sounds correct to me, yes.

23 Q. And that he had also snorted a gram of  
24 cocaine, correct?

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1           A.       Yes.

2           Q.       And he testified at the motion to  
3 suppress that he had taken eight Valium, do you recall  
4 that?

5           A.       I do.

6           Q.       And do you have any sense of the level of  
7 impairment that someone of his age and size would have  
8 been displaying if they had consumed twelve beers, a  
9 gram of cocaine, and had taken eight Valium?

10          A.       Can you repeat the first part of that  
11 question, please?

12          Q.       Do you have an opinion or an  
13 understanding of the level of sobriety that someone  
14 would be displaying if they had drank twelve beers,  
15 snorted a gram of cocaine, and taken eight Valium?

16          A.       So, I am not a medical doctor but that  
17 sounds like an extensive amount of substances in a  
18 person's system to me.

19          Q.       Would it be consistent with somebody who  
20 was able to walk?

21          A.       I can't answer that.

22          Q.       Would it be consistent with somebody who  
23 was able to run?

24          A.       I don't know.

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1 Q. At the motion to suppress hearing, George  
2 Perrot testified under oath that he remembered being  
3 awoken by police. Do you recall that testimony?

4 A. I do.

5 Q. And he remembers running away from the  
6 police?

7 A. Yes.

8 Q. Correct? And he remembers being driven  
9 in the cruiser and he describes where the officers  
10 were and what they did during that drive, do you  
11 recall that testimony?

12 A. I do.

13 Q. And he remembers being brought to the  
14 booking desk and he recalls officers laughing at him  
15 and one hitting him in the ribcage causing him to fall  
16 down. Do you recall that testimony?

17 A. I do.

18 Q. And it was detailed, would you agree?

19 A. Yes.

20 Q. And there was a lot of description in  
21 that, is that correct?

22 A. That's fair, yes.

23 Q. And is that in your opinion consistent  
24 with somebody who had had -- who was his age and his

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1 size and had drank twelve beers, snorted a gram of  
2 cocaine, and had eight Valiums?

3 A. In my opinion, that assessment would  
4 require a medical doctor's input.

5 Q. And then Mr. Perrot testified that he  
6 remembered being brought to a cell after going through  
7 booking and staying there for forty-five minutes to an  
8 hour, do you recall that?

9 A. I do.

10 Q. And then he remembers being taken  
11 upstairs to an office and he described that office,  
12 isn't that correct?

13 A. Yes.

14 Q. And he was questioned then for fifteen  
15 minutes to half an hour about the break-in at the  
16 McNabb's and the purse-snatching from the Denny's  
17 restaurant, correct?

18 A. Yes.

19 Q. And then he was returned to his cell --  
20 I'm sorry. Strike that.

21 Then he was brought downstairs for  
22 fingerprinting and mugshots, correct?

23 A. I believe so, yes.

24 Q. And then after that, he was returned to

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1 his cell, correct?

2 A. Correct.

3 Q. And he was in -- back in his cell,  
4 according to his recollection, for twenty minutes to a  
5 half an hour, do you recall all that?

6 A. Yes.

7 Q. And, again, his testimony under oath in  
8 1986 about those events was pretty detailed, correct?

9 A. Sure.

10 Q. It was logical, it was coherent, and it  
11 followed a timeline, correct?

12 A. His testimony, yes, on the stand.

13 Q. And, again, would that level of recall be  
14 consistent with someone who had -- who was his age and  
15 his size who had consumed twelve beers, snorted a gram  
16 of cocaine, and taken eight Valiums?

17 A. That would require a medical  
18 professional's input.

19 Q. So, then after about twenty minutes to a  
20 half hour in the cell, he was brought back to the  
21 statement room. Do you recall that?

22 A. Yes.

23 Q. And now he was being asked about what is  
24 often referred to in the testimony as the Covell Street

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1 and the Malibu Drive incidents but what that really is  
2 is shorthand for break-ins and violent sexual assaults  
3 of two women, correct, Emily Lichwala and Mary Prekop?

4 A. Correct.

5 Q. Okay. And he was questioned about those,  
6 according to his testimony, for about a half an hour,  
7 is that correct?

8 A. That sounds right to me.

9 Q. And during that time, he remembers being  
10 presented with and signing the statement about the  
11 McNabb break-in and the pocketbook theft, correct?

12 A. Yes.

13 Q. At Denny's? The pocketbook theft at  
14 Denny's?

15 A. Yes.

16 Q. And he reviewed those statements during  
17 the motion -- that statement during the motion to  
18 suppress and he agreed with everything that was in  
19 that statement, correct?

20 A. Yes. He -- yes.

21 Q. And you have read his deposition  
22 testimony as well?

23 A. I have.

24 Q. And in 2023, he still is stating that he

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1 did those crimes, correct?

2 A. Yes.

3 Q. And then he says he was brought into  
4 another room and then he was questioned about two  
5 unsolved murders. Do you remember that testimony?

6 A. I don't remember that testimony.

7 Q. You don't remember that he recounts being  
8 questioned about two unsolved murders that have  
9 nothing to do with Emily Lichwala or Mary Prekop or  
10 the McNabbs or the Denny's incident?

11 A. There was a lot of discovery in this case  
12 and I don't remember all of the details.

13 Q. Okay. And then he testified that he  
14 vomited, do you remember that?

15 A. I do remember that.

16 Q. And they took about a twenty-minute break  
17 to clean up the floor, correct?

18 A. I don't recall.

19 Q. All right. And then he states that he  
20 remembers very well being questioned about the rapes.  
21 Do you remember him using that phrase during the  
22 motion to suppress?

23 A. I do not remember that level of detail  
24 from the suppression hearing transcript.

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1           Q.        Okay. But he does not recall signing the  
2 statements about the rape, the violent attack and rape  
3 of Emily Lichwala and the violent attack and rape of  
4 Mary Prekop, is that correct?

5           A.        What I recall about that statement was  
6 that he testified that he never read the statements  
7 that he signed.

8           Q.        And then he says he was in the cell for  
9 about two to three hours until 12:30 or one in the  
10 afternoon. So, he was brought in, he was questioned  
11 for a few hours, and then he had a two to three hour  
12 break where he was back in his cell, do you recall  
13 that?

14          A.        Not specifically.

15          Q.        Okay. And then he recalls being asked  
16 about giving hair and blood samples and that it was  
17 related to the investigation of the rapes and that he  
18 agreed to that willing. Do you recall that testimony?

19          A.        I do, yes.

20          Q.        And he also tells that during that  
21 afternoon, a couple of other things happened. He  
22 recalls being brought food and he ate the food and  
23 there were two other -- there were two officers in the  
24 room with his while he ate his food. Do you recall

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1 that testimony?

2 A. Not specifically.

3 Q. And he was allowed access to a phone and  
4 he chose to call his girlfriend, do you remember that?

5 A. I do.

6 Q. And in fact, he says he was left alone in  
7 a room with access to the phone and he may have called  
8 his girlfriend more than once. Do you recall that?

9 A. No.

10 Q. And then he requested not to be brought  
11 back down to the cell. Do you remember that part of  
12 the motion to suppress?

13 A. I don't.

14 Q. So, you don't recall that he said he was  
15 cold and he didn't want to go back down there so they  
16 let him stay in the interrogation room?

17 A. I don't specifically recall every detail  
18 from the suppression transcript.

19 Q. So, when he first got to the station, he  
20 was given Miranda warnings and he was also -- and he  
21 signed a Miranda card, do you recall that?

22 A. Yes.

23 Q. And do you recall that he also was told  
24 he could use a phone at that time and he signed a card

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1 acknowledging that he was told he could make a phone  
2 call but that he was choosing not to, do you recall  
3 that?

4 A. Vaguely.

5 Q. And he signed three Miranda cards. He  
6 didn't deny that he was given his Miranda rights at  
7 least the first time. He says they are his signature  
8 but he doesn't recall signing them. Do you remember  
9 that testimony?

10 A. Not specifically.

11 Q. So, the statement about the break-ins at  
12 Emily Lichwala's house and Mary Prokop's house, he  
13 does not say he raped either of those women, isn't  
14 that correct?

15 A. Are you asking me about the content of  
16 the statement?

17 Q. Yes.

18 A. Are you asking me if I remember from  
19 memory?

20 Q. I'm asking you if you recall that the  
21 statement that you reviewed did not include an  
22 admission to the rapes?

23 A. I reviewed this four months ago and I  
24 don't remember the specific words.

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1 Q. What do you believe that the confession  
2 that you have called into question was a confession  
3 to?

4 A. Sexual assault.

5 Q. You believe he confessed to a sexual  
6 assault?

7 A. I think we could resolve this very  
8 quickly if I just reviewed the statement and refreshed  
9 my memory.

10 Q. Yes. I think that would be a good idea.

11 ATTORNEY DESOUSA: And I think  
12 probably, Carla --

13 ATTORNEY AGBIRO: Yes.

14 ATTORNEY DESOUSA: -- maybe a couple  
15 minute break so Dr. Cleary could review the two  
16 confessions that are from December 7th, 1985, I  
17 think that would be helpful.

18 ATTORNEY AGBIRO: I agree.

19 ATTORNEY DESOUSA: All right. So,  
20 we're going to take -- it's 10:18 and we're  
21 going to come back at 10:25. Okay?

22 ATTORNEY AGBIRO: Sounds good.

23 (A recess was taken)

24 ATTORNEY DESOUSA: Back on the

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1 record.

2 Q. (By Attorney deSousa) Okay. So, you  
3 have had an opportunity to review the statements, yes?

4 A. Yes.

5 Q. And did he confess to the rapes?

6 A. No.

7 Q. Now, when you reviewed the statement at  
8 the motion to suppress, he stated that on the evening  
9 of November 30th, he did go to Brattleboro as it says  
10 in that statement, correct?

11 A. I don't recall specifically what he said  
12 at his suppression hearing.

13 Q. Do you recall that he said that he was  
14 with Timmerman and Atkins that night?

15 A. Are you asking me what he stated at the  
16 suppression hearing?

17 Q. Yes.

18 A. I don't recall specifically what he  
19 stated at the suppression hearing.

20 Q. Do you remember at the suppression  
21 hearing that he had taken two hits of the purple  
22 Mescaline on November 30th?

23 A. I don't specifically remember what he  
24 said at the suppression hearing.

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1 Q. Do you recall that he denied remembering  
2 that he had told the two officers that he had broken  
3 into Emily's house and Mary's house?

4 A. I don't remember the specifics of the  
5 suppression hearing.

6 Q. Do you recall that he acknowledged under  
7 oath that it was his signature on that statement?

8 A. Yes.

9 Q. And that he remembered that he testified  
10 that he did recall telling them about the McNabb  
11 break-in and the stealing the purse from Denny's, do  
12 you remember that?

13 A. Yes.

14 Q. So, I'm going to switch gears and talk  
15 about some of the factors that you base your opinion  
16 on, and I'm going to be starting on Page 8 of your  
17 report and specifically the section marked Adolescence  
18 and developmental immaturity and which continues to  
19 Page 10 of your report.

20 A. Okay.

21 Q. Do you see the part that I'm referring  
22 to?

23 A. I do. Thank you.

24 Q. Okay. At the beginning of this section,

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1 you state, Scholars and courts have both recognized.

2 Do you see that statement?

3 A. I do.

4 Q. The scholar that you're referencing is  
5 yourself, correct? Footnote 22 is your own  
6 scholarly --

7 A. So, the article -- my article that I  
8 cited, in that article I describe how many different  
9 scholars and different courts have recognized the  
10 relevance of adolescent development to interrogation.

11 Q. Okay. And what courts?

12 A. The Supreme Court.

13 Q. And do you recall what cases you're  
14 citing?

15 A. So, I would have been referring to  
16 Miller, J.D.B, Roper v. Simmons, those Supreme Court  
17 cases all referenced developmental science.

18 Q. And what dates were those cases decided?

19 A. In the 20 -- 2000s.

20 Q. In the early 2000s?

21 A. Yes. Mid to late 2000s.

22 Q. So, when you said mid to late 2000s, you  
23 mean aughts, right, mid to --

24 A. Aughts, yes. Thank you.

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1 Q. Okay. Because we're not to the mid 2000s  
2 yet?

3 A. We're not, yes.

4 Q. What was the status of scholarly research  
5 into adolescent development at the interface with  
6 interrogations in 1985?

7 A. In 1985, there was not very much research  
8 specifically applying adolescent development to the  
9 legal context, although there was a very robust  
10 developmental science at that time.

11 Q. What do you mean by a robust  
12 developmental science?

13 A. I mean a strong understanding about how  
14 adolescents think and behave in general.

15 Q. But it had not apparently been applied in  
16 a legal context, is that the distinction you're  
17 making?

18 A. I'm making the distinction that at that  
19 -- by that year had not been well studied in  
20 specifically an interrogation context.

21 Q. Okay. So, there was an area of research  
22 for adolescent development but there hadn't been the  
23 level of inquiry specifically focussing on adolescent  
24 development and the impact on criminal interrogation,

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1 is that what you're saying?

2 A. Mostly. And if I may clarify. There was  
3 also a literature emerging at that time about  
4 adolescent development as it relates to legal  
5 decision-making in general with regard to, say,  
6 competency hearings or understanding of the legal  
7 process. Later, that literature began to refine and  
8 focus even more specifically on police interrogation.

9 Q. But that was not the case in 1985?

10 A. Essentially no.

11 Q. Do you know what the legal standard for  
12 interrogation of adolescents in Massachusetts in 1985  
13 was?

14 A. What do you mean by the legal standard?

15 Q. The legal standard for interrogating  
16 adolescents. What was the legal standard in  
17 Massachusetts in 1985 for police officers to  
18 interrogate adolescents?

19 A. I don't understand what you mean by the  
20 legal standard.

21 Q. Do you know whether a seventeen-year-old  
22 under Massachusetts law in 1985 was required to have a  
23 parent or friendly adult with them?

24 A. I don't believe that was the case.

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1 Q. And was there any other particular  
2 guidance in Massachusetts through statutory case law  
3 or regulatory agency that governed police officers if  
4 they were interrogating a seventeen-year-old in 1985  
5 in Massachusetts?

6 A. I don't know.

7 Q. So, I would like you to take a moment and  
8 look through the citations that are included from Page  
9 8 to Page 10 up to the Miranda comprehension section  
10 and tell me whether any of the citations that you're  
11 relying upon predate 1985.

12 A. They don't. I rely on the most  
13 contemporary comprehensive research that's available.

14 Q. So, now we're going to go through the  
15 next section which starts on Page 10 and runs to Page  
16 11 and is concerned with youth Miranda -- youth  
17 Miranda rights comprehension and waiver. Have you  
18 drawn your attention to that section?

19 A. Yes. Thank you.

20 Q. So, for the purposes of this section, are  
21 you using the same definition of youth that is -- that  
22 you testified to earlier, so age ten to twenty-five?

23 A. Yes.

24 Q. And we can agree that within that, you

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1 know, a ten-year-old's comprehension of various  
2 matters is probably more nuanced than a -- I mean less  
3 nuanced than a twenty-year-old's, is that fair to say?

4 A. Yes.

5 Q. And within age groups, you would expect  
6 to see differences, correct?

7 A. Differences in what?

8 Q. So, one seventeen-year-old might have a  
9 different level of comprehension of Miranda rights or  
10 the effect of a waiver than another  
11 seventeen-year-old? It's not a straight line, is that  
12 fair?

13 A. I see. Yes, there are individual  
14 differences and also patterns across the lifespan.

15 Q. And would life experiences also influence  
16 an adolescent's ability to comprehend their Miranda  
17 rights and the effect of a waiver?

18 A. Not necessarily.

19 Q. Would prior interaction with the criminal  
20 justice system, for example being arrested,  
21 interrogated, and having their rights read before,  
22 would that in your opinion influence the -- would it  
23 be more probable than not that that would influence  
24 your understanding of your Miranda rights and the

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1 effect of a waiver?

2 A. Not necessarily.

3 Q. How about -- strike that.

4 Are you aware that George Perrot  
5 testified at his suppression hearing that he was well  
6 aware of what his Miranda rights were?

7 A. I don't recall the specifics of the  
8 suppression hearing.

9 Q. Whether you recall it or not, if George  
10 Perrot testified under oath that he -- on December  
11 7th, 1985 that he was well aware of what his Miranda  
12 rights were, would that influence your opinion about  
13 his comprehension of his Miranda rights?

14 A. That would require me making a  
15 reliability assessment that I wouldn't be comfortable  
16 making.

17 Q. Why would you not be comfortable making  
18 that assessment?

19 A. Because people are not necessarily good  
20 self reporters of their own abilities and states.

21 Q. So, I think I already asked you this, but  
22 you did not review the decision of Judge Murphy on  
23 that issue after the suppression hearing, is that  
24 correct?

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1 A. I don't believe so.

2 Q. Okay. And in this section, you also  
3 speak to IQ as impacting comprehension, correct?

4 A. Yes. Research demonstrates the  
5 relationship between IQ and Miranda comprehension.

6 Q. And we don't know -- you don't know what  
7 his IQ was at that time, correct?

8 A. I don't believe so.

9 Q. So, I'm going to be asking you this  
10 repeatedly. So, the research that you have cited  
11 relative to this section, does any of that predate  
12 1985?

13 A. None of the particular citations that I  
14 included predate 1985.

15 Q. Do you have any citations to any cases  
16 where courts have held police departments to a  
17 standard that you're enunciating when providing  
18 seventeen-year-olds with their Miranda rights?

19 A. I'm sorry. I don't understand the  
20 question.

21 Q. So, in this section, you are stating, are  
22 you not, that it is a factor that should be considered  
23 when Mirandizing somebody is that you should be making  
24 a determination about their ability to comprehend

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1 based both on their age and their IQ, correct?

2 A. No, that's not what I'm asserting.

3 Q. Okay. What are you --

4 A. That research demonstrates that  
5 individuals with lower IQ struggle to understand their  
6 Miranda warnings and to apply the information in  
7 Miranda to their own legal situation. That is  
8 different from -- nowhere in my report am I asserting  
9 that it is -- that the law requires police officers to  
10 do this. I'm simply conveying what research shows  
11 about what impairs Miranda comprehension.

12 Q. So, are you not aware that this report is  
13 being used to bring a claim that the officers involved  
14 in the interrogation of George Perrot violated his  
15 civil rights?

16 A. I am aware.

17 Q. And does your report speak to that issue?

18 A. That's not for me to decide. My report  
19 speaks to the science around why some people admit to  
20 crimes that they didn't actually commit.

21 Q. So, is it your opinion that the police  
22 officers in interrogating George Perrot that night  
23 violated his civil rights?

24 A. That's not for me to decide.

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1 Q. And, so, is it fair to say that is not  
2 your opinion?

3 A. I don't have an opinion on police  
4 officers' violations of his civil rights either way.

5 Q. And is that because you don't have an  
6 understanding of what the legal standards are that  
7 they're operating under?

8 A. No. It's because I'm not a judge.

9 Q. Okay. Let's move onto the next section  
10 on Psychopathology which starts on Page 11 and  
11 concludes on Page 12.

12 A. Yes.

13 Q. In that section, you reference, we talked  
14 about this a little earlier, a report in which George  
15 Perrot was diagnosed in January of 1986 with  
16 antisocial personality disorder?

17 A. Correct.

18 Q. And substance abuse issues, correct?

19 A. Yes.

20 Q. And can you explain what antisocial  
21 personality disorder is?

22 A. Generally speaking, it's a pattern of  
23 consistent disregard for authority and rule violating  
24 behavior.

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1 Q. Is it the same as psychopathology?

2 A. It's a type of psychopathology.

3 Q. And is it marked by a lack of empathy?

4 A. It can be.

5 Q. Is that a diagnostic criteria for  
6 antisocial personality disorder?

7 A. I'm not comfortable speaking directly to  
8 the diagnostic criteria because I'm not a clinician.

9 Q. Is it the same as -- does somebody who  
10 suffers from antisocial personality disorder, would  
11 they also be described as being a sociopath?

12 A. I'm not able to answer that as a  
13 non-clinician.

14 Q. You do have a PhD in psychology, correct?

15 A. In developmental psychology.

16 Q. And does someone who has antisocial  
17 personality disorder, are they -- is it marked by a  
18 lack of veracity in recounting of events?

19 A. I don't feel comfortable answering  
20 questions about diagnostic criteria.

21 Q. Well, based on what you have reviewed,  
22 what characteristics of George Perrot that you have  
23 been able to discern from your review of the records  
24 are consistent with that diagnosis?